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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,901	06/24/2003	Ken R. Powell	104.028-03	7578
7590 11/21/2007 Law Office of Jerome D. Jackson Suite 100 211 N. Union Street Alexandria, VA 22314			EXAMINER CARLSON, JEFFREY D	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 11/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/601,901	<b>Applicant(s)</b> POWELL ET AL.	
	<b>Examiner</b> Jeffrey D. Carlson	<b>Art Unit</b> 3622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 2-10, 13, 14, 16-19, 21, 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 2, 3, it is unclear what specific steps are being further performed. Describing who performs the steps of claim 1 does not provide a definite limitation.
- Claims 4, 5, it is unclear how the mention of plural cards limits the method steps of the claims. Claim 4 requires sending a signal to a single card – the plurality of cards not acted upon adds confusion to the claim scope. Claim 5 is limited by steps performed on a single card as well. If applicant desires the other cards to be acted upon, such should be claimed with further method steps.
- Claim 13, 14, 21, 22, it is not clear what *structure* is being set forth in these claims. Who uses a system does not define the structure of the system.
- Claim 16, there is no antecedent basis for any cards.
- Claims 18, 19, it is not clear what structure possesses this logic. Applicant should set forth an element of the system that includes programming capable of carrying out such logic.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powell (US5727153) in view of Drupsteen et al (US6249869).**

4. Regarding claims 1, 4, 5, 10, 11, 15, 16, 19, 20, Powell teaches the concept of enabling users' cards to be swiped at product locations throughout a store to collect coupons written to the card which are redeemed at the checkout register. Powell does not describe the use of accumulating points through purchases and redeeming the points for the coupons. Drupsteen et al however, teaches the idea of frequent buyer points that accumulate on a customers magnetic card as a user makes purchases at the store (the store increments/modifies the first signal/points). These frequent buyer points can be redeemed for product-specific coupons. It would have been obvious to one of ordinary skill at the time of the invention to have provided accumulating points to the buyers of Powell's system so that users can redeem them at the product locations for product-specific coupons, thus encouraging buyers to frequent the store in an effort to earn more points/coupons. Powell teaches a product location to include a card reader/writer at product locations adjacent to products on a shelf. Powell also describes the use of a display at the product location "for displaying product promotional messages" as well as an LED display which confirms successful writing of a coupon. It

would have been obvious to one of ordinary skill at the time of the invention to have displayed a confirmation and the details of a successful coupon writing, such as "your card has successfully received a \$1.00 coupon in exchange for 350 club points" so that the user has confidence in and a confirmation of a successful coupon write operation.

5. Regarding claims 2, 3, 8, 13, 14, 18, 21, 22, Official Notice is taken that it is both well known for a company to promote its other products as well as different companies to cross-promote in order to encourage sales. It would have been obvious to one of ordinary skill at the time of the invention to have provided point-driven loyalty coupons for either the same company or a partner company.

6. Regarding claims 6, 7, 9, 17, sending a coupon to the card and the subsequent redemption of that coupon at the POS both reflect a correspondence/association with the first signal (proper points earned).

7. Regarding claim 12, it would have been obvious to one of ordinary skill at the time of the invention to have provided a housing with the writers/readers of Powell to provide protection to the circuitry.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Mon-Fri 8a-5:30p, (work from home on Thursdays).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jeffrey D. Carlson  
Primary Examiner  
Art Unit 3622

jdc